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COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 8 (c)

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

Angola, Argentina, Australia*, Austria, Belgium*, Bulgaria, Canada, Chile, Congo*, Côte d'Ivoire*, Cyprus, Czech Republic, Denmark, Dominican Republic, Estonia*, Finland*, France, Georgia*, Germany, Greece*, Guinea, Hungary*, Ireland, Italy, Liechtenstein, Luxembourg, Madagascar, Netherlands, New Zealand*, Norway*, Poland*, Portugal*, Republic of Korea, Romania*, San Marino*, Slovakia*, Slovenia*, Spain*, Sweden*, Switzerland*, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

1997/... Question of enforced or involuntary disappearances

The Commission on Human Rights,

Bearing in mind General Assembly resolution 33/173 of 20 December 1978, in which the Assembly requested the Commission on Human Rights to consider the question of disappeared persons with a view to making appropriate recommendations, and all other United Nations resolutions concerning missing or disappeared persons,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling its resolution 20 (XXXVI) of 29 February 1980, in which it decided to establish a working group consisting of five of its members, to serve as experts in their individual capacity, to examine questions relevant to enforced or involuntary disappearances, and its resolutions 1991/41 of 5 March 1991, 1992/30 of 28 February 1992, 1993/35 of 5 March 1993, 1994/39 of 5 March 1994, 1995/38 of 3 March 1995 and 1996/30 of 19 April 1996,

Recalling also General Assembly resolution 47/133 of 18 December 1992, by which the Assembly adopted the Declaration on the Protection of All Persons from Enforced Disappearance as a body of principles for all States, and Assembly resolutions 49/193 of 23 December 1994 and 51/94 of 12 December 1996,

Deeply concerned, in particular, by the intensification of enforced or involuntary disappearances in various regions of the world and by the growing number of reports concerning harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of persons who have disappeared,

Recalling its resolution 1995/75 of 8 March 1995 on cooperation with the representatives of United Nations human rights organs,

1. Takes note of the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1997/34);

2. Reminds the Working Group:

(a) That its primary role is to act as a channel of communication between families of the disappeared persons and the Governments concerned, with a view to ensuring that sufficiently documented and clearly identified individual cases are investigated and to ascertain whether such information falls under its mandate and contains the required elements;

(b) That in its humanitarian task it must observe United Nations standards and practices regarding the handling of communications and the consideration of Government replies;

(c) That it should continue to consider the question of impunity in close collaboration with the rapporteurs appointed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and with due regard for the relevant provisions of the Declaration;

(d) That it should pay particular attention to cases of children subjected to enforced disappearance and children of disappeared persons, and cooperate closely with the Governments concerned in searching for and identifying these children;

(e) That it must apply gender perspective in its reporting process, including in information collection and formulation of recommendations;

3. Deplores the fact that some Governments have never provided substantive replies concerning the cases of enforced disappearances in their countries or acted on the recommendations concerning them made in the reports of the Working Group;

4. Urges the Governments concerned:

(a) To cooperate with the Working Group and help it to carry out its mandate effectively;

(b) To intensify their cooperation with the Working Group on any action taken pursuant to recommendations addressed to them by the Working Group;

(c) To take steps to protect the families of disappeared persons against any intimidation or ill-treatment to which they might be subjected;

(d) To invite the Working Group to visit their countries so as to enable it to fulfil its mandate even more effectively;

(e) To take steps to ensure that, when a state of emergency is introduced, the protection of human rights is guaranteed, particularly as regards the prevention of enforced or involuntary disappearances;

(f) That have long had many unresolved cases of disappearances, to continue their efforts to shed light on the fate of the individuals concerned and to set in train with the families of those individuals appropriate settlement machinery;

5. Reminds Governments:

(a) Of the need to ensure that their competent authorities proceed in reasonable time to conduct impartial inquiries in all circumstances where there is reason to believe that an enforced disappearance has occurred in territory under their jurisdiction;

(b) That, if such belief is borne out, the perpetrators must be prosecuted, and that all acts of enforced disappearance are crimes punishable by appropriate penalties which should take due account of their extreme seriousness under penal law;

6. Expresses:

(a) Its thanks to the many Governments that have cooperated with the Working Group and replied to its requests for information, and to the Governments that have invited the Working Group to visit their countries, asks them to give all necessary attention to the Working Group's recommendations, and invites them to inform the Working Group of any action they take on those recommendations;

(b) Its commendation of the efforts by Governments which investigate, or develop appropriate mechanisms to investigate, any cases of enforced disappearances which are brought to their attention, and encourages all the Governments concerned to expand their efforts in this area;

7. Invites:

(a) States to take legislative, administrative, legal and other steps to implement the principles of the Declaration on the Protection of All Persons from Enforced Disappearance;

(b) All Governments in this connection to take action at the national and regional levels and in cooperation with the United Nations, if appropriate through technical assistance;

(c) States to provide, as some have already done, concrete information on measures taken to give effect to the Declaration, as well as obstacles encountered;

8. Takes note:

(a) Of the activities of non-governmental organizations in support of the implementation of the Declaration, and invites them to continue to facilitate its dissemination;

(b) Of the cooperation provided to the Working Group by non-governmental organizations;

9. Requests the Working Group to report on its activities to the Commission at its fifty-fourth session and to continue to discharge its mandate discreetly and conscientiously;

10. Requests the Secretary-General:

(a) To ensure that the Working Group receives all the assistance and resources it requires to perform its function, especially in carrying out missions, following them up or holding sessions in countries that would be prepared to receive it;

(b) To keep the Working Group and the Commission on Human Rights regularly informed of the steps he takes for the widespread dissemination and promotion of the Declaration on the Protection of All Persons from Enforced Disappearance;

11. Decides to consider this matter at its fifty-fourth session under the same agenda item.